

NOT TO BE PUBLISHED

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Yuba)

----

THE PEOPLE,

Plaintiff and Respondent,

v.

RONI ARLENA MULKEY,

Defendant and Appellant.

C070771

(Super. Ct. No. CRF11439)

Defendant Roni Arlena Mulkey pled no contest to assault with force likely to produce great bodily injury (Pen. Code, § 245, subd. (a)(1)). In exchange for her plea, the People agreed to “no immediate state prison,” and to dismiss the remaining charge, assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1)), with a *Harvey*<sup>1</sup> waiver. Defendant was granted probation for three years, ordered to serve 90 days in jail, and ordered to pay numerous fines and fees. Defendant also was ordered to have no contact with several individuals, including her boyfriend Marcus Hume.

Defendant’s sole claim on appeal is that the probation condition prohibiting her from seeing Hume must be stricken because it is unreasonable, unrelated to the crime for which she was convicted, and unrelated to future criminality. Specifically, defendant

---

<sup>1</sup> People v. Harvey (1979) 25 Cal.3d 754.

contends there is insufficient evidence to support the trial court's finding that Hume is a convicted felon. She also contends that because Hume is currently incarcerated, her contact with him would be monitored and thus it is unreasonable to prohibit such contact.

We reject both of defendant's contentions. First, there is no requirement that the trial court identify the specific convictions for which Hume was found to be a convicted felon in order to find he is a felon. Second, under the circumstances, the probation condition prohibiting contact with Hume is a reasonable restriction of her rights. Accordingly, the judgment is affirmed.

## DISCUSSION

### I

#### *Insufficient Evidence*

In ordering defendant not to have any contact with Hume, the trial court found: "[Hume] is a convicted felon. Even if he is not violated for the crime for which he is currently charged, which is murder, should she contact him, she would be becoming [*sic*] abandoned to the vicious associates of life, and I'm ordering that she not contact him. He basically is not a good influence."

Defendant contends there is insufficient evidence to support the trial court's finding that Hume is a convicted felon. In support of her contention, defendant relies on *People v. Romero* (1977) 68 Cal.App.3d 543 (*Romero*), in which the Court of Appeal ruled "[t]here must be some substantial basis for believing the information contained in the probation report is accurate and reliable." (*Id.* at p. 549.) Defendant's reliance on *Romero* is misplaced.

In *Romero, supra*, 68 Cal.App.3d 543, the court addressed a defendant's own criminal history and how the details of that criminal history, contained in a probation report, will impact the defendant's due process rights at sentencing. (*Romero* at p. 549.) Here, it is not defendant's criminal history that is in question, it is the criminal history of her boyfriend. Defendant cites no authority and makes no persuasive argument for the

proposition that the specifics of another person's criminal history must be included in defendant's probation report before the court can find that other person to be a convicted felon.

In any event, defendant's claim fails. Even if the record does not state which felony or felonies Hume had been convicted of, there is sufficient evidence to support the no-contact probation condition. In recommending a no contact order, the probation report stated that "[g]iven his pending charges for violent crimes and his criminal history, he is certainly viewed as a negative influence on the defendant going forward." At the sentencing hearing, in response to defense counsel's argument that Hume had nothing to do with this case and is in custody, the trial court made the point that even though Hume is in custody facing murder charges, defendant would be less likely to rehabilitate herself if she is associating with a parolee. Based on the record, we uphold the trial court's imposition of this no-contact probation condition.

## II

### *Reasonableness of the Probation Condition*

Defendant contends the probation condition is unreasonable because Hume is currently incarcerated awaiting trial on a murder charge so, "if her contact with [Hume] revealed that she was becoming 'abandoned to improper associates or a violent life,' authorities would know about it instantly." The trial court did not find this argument persuasive and neither do we.

"A condition of probation will not be held invalid unless it '(1) has no relationship to the crime of which the offender was convicted, (2) relates to conduct which is not in itself criminal, and (3) requires or forbids conduct which is not reasonably related to future criminality.'" (*People v. Lent* (1975) 15 Cal.3d 481, 486.)

The condition that defendant avoid the company of individuals known to have a criminal record may not be related to the crime of assault and is certainly not in itself criminal conduct, but it *is* reasonably related to defendant's future criminality. "By

prohibiting defendant from associating with persons having a known criminal record, the court was placing a control over defendant which would assist her in successfully completing probation.” (*People v. Robinson* (1988) 199 Cal.App.3d 816, 818.) The trial court did not abuse its discretion when it imposed this no-contact probation condition.

DISPOSITION

The judgment is affirmed.

\_\_\_\_\_  
HOCH, J.

We concur:

\_\_\_\_\_  
ROBIE, Acting P. J.

\_\_\_\_\_  
MAURO, J.